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**SENATE BILL 800**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

Mary Kay Papen

**AN ACT**

**RELATING TO HEALTH CARE; AMENDING THE PRIMARY CARE CAPITAL  
FUNDING ACT; ALLOWING BEHAVIORAL HEALTH CLINICS TO BE ELIGIBLE  
FOR FUNDING FROM THE PRIMARY CARE CAPITAL FUND; ALLOWING  
ELIGIBLE ENTITIES TO REFINANCE CAPITAL PROJECTS THROUGH THE  
FUND.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 24-1C-3 NMSA 1978 (being Laws 1994,  
Chapter 62, Section 9, as amended) is amended to read:**

**"24-1C-3. DEFINITIONS. -- As used in the Primary Care  
Capital Funding Act:**

**A. "authority" means the New Mexico finance  
authority;**

**B. "capital project" means repair, renovation or  
construction of a facility; purchase of land; or acquisition of**

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1 capital equipment of a long-term nature;

2 C. "department" means the department of health;

3 D. "eligible entity" means a community-based  
4 nonprofit primary care clinic, behavioral health clinic or  
5 hospice that operates in a rural or other health care  
6 underserved area of the state and that has assets totaling less  
7 than ten million dollars (\$10,000,000) and is a 501(c)(3)  
8 nonprofit corporation for federal income tax purposes;

9 E. "fund" means the primary care capital fund; and

10 F. "primary care" means the first level of basic or  
11 general health care for an individual's health needs, including  
12 diagnostic and treatment services; "primary care" includes the  
13 provision of mental health services [~~if those services are~~  
14 ~~integrated into the eligible entity's service array~~]. "

15 Section 2. Section 24-1C-5 NMSA 1978 (being Laws 1994,  
16 Chapter 62, Section 11) is amended to read:

17 "24-1C-5. [~~REGULATIONS~~] RULES. --

18 A. [~~Prior to September 15, 1994~~] The department, in  
19 conjunction with the authority, shall adopt [~~regulations~~] and  
20 periodically review and update rules to administer and  
21 implement the provisions of the Primary Care Capital Funding  
22 Act, including providing for:

23 (1) the determination of rural or other health  
24 care underserved areas of the state in which eligible entities  
25 may receive loans or contracts for services from the fund;

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1 (2) procedures and forms for applying for  
2 loans or contracts for services for capital projects;

3 (3) documentation required to be provided by  
4 the applicant to justify the need for the capital project;

5 (4) documentation required to be provided by  
6 the applicant to demonstrate that the applicant is an eligible  
7 entity;

8 (5) procedures for review, evaluation and  
9 approval of loans and contracts for services, including the  
10 programmatic, organizational and financial information  
11 necessary to review, evaluate and approve an application;

12 (6) evaluation of the ability and competence  
13 of an applicant to provide efficiently and adequately for the  
14 completion of a proposed capital project;

15 (7) approval of loan and contract for services  
16 applications, including provisions that accord priority  
17 attention to areas with the greatest need for primary care  
18 services;

19 (8) fair geographic distribution of loans and  
20 contracts for services;

21 (9) requirements for repayment of loans,  
22 including payment schedules, interest rates, loan terms and  
23 other requirements;

24 (10) ensuring the state's interest in any  
25 capital project [~~by the filing of a lien equal to the total of~~

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1 ~~the state's financial participation in the project~~]; and

2 (11) such other requirements deemed necessary  
3 by the department and the authority to ensure that the state  
4 receives the primary care services for which the legislature  
5 appropriates money and that ~~[protects]~~ protect the state's  
6 interest in a capital project.

7 B. ~~[Regulations]~~ Rules adopted by the department  
8 shall become effective when filed in accordance with the  
9 provisions of the State Rules Act. "

10 Section 3. Section 24-1C-6 NMSA 1978 (being Laws 1994,  
11 Chapter 62, Section 12, as amended) is amended to read:

12 "24-1C-6. DEPARTMENT--AUTHORITY--POWERS AND DUTIES.--

13 A. The department and the authority shall  
14 administer the loan programs and contracts for services  
15 ~~[established]~~ authorized pursuant to the provisions of the  
16 Primary Care Capital Funding Act. The department and authority  
17 shall:

18 (1) enter into joint powers agreements with  
19 each other or other appropriate public agencies to carry out  
20 the provisions of that act; and

21 (2) apply to any appropriate federal, state or  
22 local governmental agency or private organization for grants  
23 and gifts to carry out the provisions of that act or to fund  
24 allied community-based health care programs.

25 B. The department or authority may, instead of a

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1 loan, contract for services with an eligible entity to provide  
2 free or reduced fee primary care, behavioral health or hospice  
3 services for sick and medically indigent persons as reasonably  
4 adequate legal consideration for money from the fund to the  
5 entity so it may acquire or construct a capital project to  
6 provide the services. No more than fifty percent of a loan may  
7 be repaid through contracts for services.

8 C. The department and authority may:

9 (1) make and enter into contracts and  
10 agreements necessary to carry out their powers and duties  
11 pursuant to the provisions of the Primary Care Capital Funding  
12 Act; and

13 (2) do all things necessary or appropriate to  
14 carry out the provisions of the Primary Care Capital Funding  
15 Act.

16 D. The authority is responsible for all financial  
17 duties of the programs, including:

18 (1) administering the fund;  
19 (2) accounting for all money received,  
20 controlled or disbursed for capital projects in accordance with  
21 the provisions of the Primary Care Capital Funding Act;

22 (3) evaluating and approving loans and  
23 contracts for services, including determining financial  
24 capacity of an eligible entity;

25 (4) enforcing contract provisions of loans and

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1 contracts for services, including the ability to sue to recover  
2 money or property owed the state;

3 (5) determining interest rates and other  
4 financial aspects of a loan and relevant terms of a contract  
5 for services; and

6 (6) performing other duties in accordance with  
7 the provisions of the Primary Care Capital Funding Act,  
8 [~~regulations~~] rules promulgated pursuant to that act or joint  
9 powers agreements entered into with the department.

10 E. The department is responsible for the following  
11 duties:

12 (1) defining sick and medically indigent  
13 persons for purposes of the Primary Care Capital Funding Act;

14 (2) establishing priorities for loans and  
15 contracts for services;

16 (3) determining the appropriateness of the  
17 capital project;

18 (4) evaluating the capability of an applicant  
19 to provide and maintain primary care or hospice services;

20 (5) selecting recipients of loans and persons  
21 with whom to contract for services;

22 (6) determining that capital projects comply  
23 with all state and federal licensing and procurement  
24 requirements; and

25 (7) contracting with an eligible entity to

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1 provide primary care services without charge or at a reduced  
2 fee for sick and medically indigent persons as defined by the  
3 department.

4 F. The authority may make a loan to an eligible  
5 entity to acquire, construct, renovate or otherwise improve a  
6 capital project, provided there is a finding:

7 (1) by the department that the project will  
8 provide primary care services to sick and medically indigent  
9 persons as defined by the department; and

10 (2) by the authority that there is adequate  
11 protection, including [~~but not limited to~~] loan guarantees,  
12 real property liens, title insurance, security interests in or  
13 pledges of accounts and other assets, loan covenants and  
14 warranties or restrictions on other encumbrances and pledges  
15 for the state funds extended for the loan. "

16 Section 4. A new section of the Primary Care Capital  
17 Funding Act is enacted to read:

18 "[NEW MATERIAL] REFINANCING OF LOANS.--An eligible entity  
19 may refinance loans for capital projects through the  
20 authority. "